

Integration of Employment Law Regulations in the Omnibus Law: Impact on Workers' Rights and Obligations

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Article	Abstract
<p>How to cite: Vais, et.al, 'Integration of Employment Law Regulations in the Omnibus Law: Impact on Workers' Rights and Obligations "(2024) Vol. 5 No. 2 Rechtenstudent Journal Sharia Faculty of KH Achmad Siddiq Jember State Islamic University.</p> <p>DOI: 10.35719/rch.v5i2.248</p> <p>Article History: Submitted: 20/06/2024 Reviewed: 29/06/2024 Revised: 09/07/2024 Accepted: 21/07/2024</p> <p>ISSN: 2723-0406 (printed) E-ISSN: 2775-5304 (online)</p>	<p>Related to Omnibuslaw currently has been established to be part of the Law, but there are some issues that cause overlap and inconsistency with workers. As well as the existence of the work creation law gives more freedom to entrepreneurs than to workers or workers, one of them is like giving hours of work and giving wages that are only unilaterally discontinued without a joint agreement. This is the problem that is considered serious because so many workers complain about the problem. Therefore, with the existence of the application of omnibuslaw to the law of creation of work to correct the imbalance that has occurred to entrepreneurs and workers. As with the establishment of government regulations replacing the Law No. 2 of 2022 on job creation, these new regulations were enforced with the aim of further maximizing and improving the welfare of workers or entrepreneurs based on Pancasila. Even with the implementation of omnibuslaw to improve the existing employment system in Indonesia.</p> <p>Keywords: <i>Labor, Omnibuslaw, Employment.</i></p> <p>Abstrak Terkait dengan Omnibuslaw saat ini telah ditetapkan untuk menjadi bagian dari Undang-Undang, namun ada beberapa hal yang menjadi permasalahan yang menyebabkan tumpang tindih dan adanya ketidak selarasan terhadap para pekerja. Serta dengan adanya Undang-Undang cipta kerja memberikan kebebasan yang lebih luas terhadap para pengusaha daripada kepada para pekerja atau buruh, salah satunya ialah seperti pemberian jam kerja dan pemberian gaji yang hanya diputus secara sepihak tanpa adanya kesepakatan secara bersama. Hal inilah yang menjadi trouble yang dianggap serius karena banyak sekali para pekerja yang mengeluhkan terkait permasalahan tersebut. Oleh karena itu dengan adanya penerapan omnibuslaw terhadap undang-undang cipta kerja untuk memperbaiki adanya ketidak seimbangan yang telah terjadi terhadap para pengusaha dan pekerja. Sebagaimana dengan adanya penetapan peraturan pemerintah pengganti Undang-Undang Nomor 2 Tahun 2022 tentang cipta kerja, peraturan ini yang baru diberlakukan dengan tujuan agar lebih memaksimalkan serta mensejahterakan para pekerja ataupun pengusaha yang berlandaskan dengan Pancasila. Bahkan dengan penerapan <i>omnibus law</i> untuk memperbaiki sistem ketenagakerjaan yan ada di</p>

Indonesia.

Kata Kunci: *Tenaga Kerja, Omnibus Law, Ketenagakerjaan.*

Introduction

Employment is something related to the workforce before it occurs, during the process, and also after the completion of the employment contract that has been agreed upon by the parties concerned.¹ As also stated in Law Number 13 of 2013 which explains that the existence of employment is to provide a form of protection for workers, as well as to improve justice and welfare for workers.

In employment, the Job Creation Law has also been enacted as it regulates and maximizes between workers and employers. Even for contracts that have been made, of course there must be an agreement from both parties and without any unilateral decisions as also stated in Article 51 paragraph (1) of Law Number 13 of 2003. Therefore, the Job Creation Law is a form of effort made to develop existing businesses in Indonesia and to reduce unemployment.²

Omnibuslaw is a term related to laws and other types of laws, even in this case it has the aim of withdrawing some of the laws that have been in effect. Related to omnibuslaw, it is also often referred to as a law that plays a very important role and has the power to be a form of reference to resolve problems that occur.³ Therefore, omnibus law also includes rules that have a comprehensive nature and do not even have ties to only one regulation but also have ties in mastering the applicable regulations.

In the application of the omnibus law concept to its rules, it became very hotly debated when it was discovered that previously the omnibus law was not familiar with this continental European legal system. Even omnibus law was also applied in the drafting of Law Number 11 of 2020, which discusses Job Creation which has become a priority national legislative program in 2020, as in the changes to the rules that use the application of omnibuslaw in Indonesia. Even amended Law Number 11 of 2020 which explains about us working as a form of legal policy.

In this case, omnibus law is a topic of discussion where this system is still unknown to the general public, so it is related to the power of the government to be very influential on the rights of workers and even hesitate to become investors.⁴ As the cause of investors who hesitate to invest in Indonesia because one of them is the difficulty of doing business in Indonesia itself. Even the competitiveness is very low when compared to other countries. So that's what makes investors hesitate to invest in Indonesia. Therefore, Indonesia implemented Presidential Regulation number 91 of 2017 concerning the acceleration of the implementation of openness in business licensing. Thus, this study will discuss the omnibus law perspective of employment law, legal protection for workers, and the direction of employment law policies in the omnibus law era.

¹ Y. Setyawan, "Dalam Cipta Kerja Perspektif Omnibuslaw," *Jurnal Sosialita* 7 (2020): 150–164, <http://repository.upy.ac.id/id/eprint/2469%0Ahttp://repository.upy.ac.id/2469/1/Siswanta-Peran-Masyarakat-Kraton-Pajang.pdf>

² Hesty Kartikasari and Agus Machfud Fauzi, "Penolakan Masyarakat Terhadap Pengesahan Omnibus Law Cipta Kerja Dalam Perspektif Sosiologi Hukum," *Doktrina: Journal of Law* 4, no. 1 (2021): 39–52

³ Applied Mathematics, "Hukum Ketenagakerjaan Perspektif Omnibuslaw" 10 (2016): 1–23.

⁴ Muhammad Zubi, Marzuki, and Ibnu Affan, "Tinjauan Yuridis Perlindungan Hak-Hak Normatif Tenaga Kerja Setelah Berlakunya Undang-Undang Cipta Kerja (Omnibus Law)," *Jurnal Ilmiah Metadata* 3, no. 3 (2021): 1171–1195

Research Method

The type of research used is quantitative research using the Statute Approach, Historical Approach, and Conceptual Approach. Related to the sources of legal materials applied, they consist of primary legal materials which include laws and regulations, jurisprudence. While secondary law includes the results of various previous studies and draft laws. In the legal material collection technique applied is descriptive analysis, therefore to analyze legal materials adjust to primary and secondary legal materials.

Results and Discussion

Employment Law in the Omnibus Law Perspective

Omnibus law consists of two words, namely Omnibus which means for all and Law which means, so both provide a legal meaning for all.⁵ Omnibuslaw is a concept for drafting laws that have been applied to change or revise part of the discussion in the Law. Therefore, in the application of a system based on the Omnibus Law concept, it is also the same as other countries. Therefore, related to the concept applied, this is because there are too many regulations that conflict or are not in line. So, when the problem is resolved by revising the law, it also takes a long time and of course it has a big influence on the rules of the Law, even the costs are quite a lot, especially in the process, of course, problems will arise related to incompatibilities in this matter.

Therefore, related to employment, there is also a term for labor, even until now the two terms are still widely discussed, of course related to these two terms having the same purpose and function and have limitations. Based on article 1 number 1 of law number 13 of 2003 which discusses workers and employers, which in this case of course also explains about workers according to the times stated in the Law.⁶ In relation to employment, it has also been regulated in the law and also discusses matters related to workers or laborers who are related to relationships before or after the contract period takes place, and this even provides information related to workers.⁷

Employment has also been regulated in Law Number 13 of 2003 and has been enacted in the State Gazette of 2003 Number 39 on March 25, 2003, and began to be implemented on that date. Related to the employment development process which is part of the complement of national development based on Pancasila and the law, therefore it is organized in the framework of the development of the Indonesian people as a whole and the development of the entire Indonesian society to be able to further improve the dignity, honor, and self-esteem of the workforce.⁸ And also to create a more prosperous and just society, as has also been explained in Law Number 13 of 2003.⁹

⁵ Suryati Suryati, Ramanata Disurya, and Layang Sardana, "Tinjauan Hukum Terhadap Omnibus Law Undang-Undang Cipta Kerja," *Simbur Cahaya* 28, no. 2 (2021): 97–111, <http://journal.fh.unsri.ac.id/index.php/simburcahaya/article/view/902>.

⁶ Andri Fransiskus Gultom and Marsianus Reresi, "Kritik Warga Pada Ruu Omnibus Law Dalam Paradigma Critical Legal Studies," *Jurnal Pendidikan Kewarganegaraan* 10, no. 1 (2020): 38

⁷ May Linda Iswaningsih, I Nyoman Putu Budiarta, and Ni Made Puspasutari Ujianti, "Perlindungan Hukum Terhadap Tenaga Kerja Lokal Dalam Undang-Undang Nomor 11 Tahun 2020 Tentang Omnibus Law Cipta Kerja," *Jurnal Preferensi Hukum* 2, no. 3 (2021): 478–484

⁸ Mathematics, "Hukum Ketenagakerjaan Perspektif Omnibuslaw."

⁹ F Iswahyudi, "Implikasi Kebijakan Omnibus Law Cipta Kerja Dalam Perspektif Teori Perundang-Undangan," *Mahadi: Indonesia Journal of Law* 1, no. 1 (2022): 58–71,

In this case, the omnibus law is essentially a step to make laws as a way to regulate the impacts that have been experienced by this country, the law can also revise and even discuss the issues that explain the purpose of making the law.¹⁰ Therefore, this law has the nature of revising provisions that are considered unbalanced and cannot be adjusted to current conditions, therefore these articles are what cause doubt among investors, resulting in the loss of investment provided by other countries.¹¹

As in Law Number 11 of 2020 concerning Job Creation, it is stated that in order to provide greater convenience when investing, Law Number 13 of 2003 concerning employment is for the protection of workers. When the articles in the Employment Law are revised or further examined, this will be included in Law Number 11 of 2020 concerning Job Creation, this is what will cause problems, both philosophical problems in providing convenience for investors or shareholders, of course, have the aim that the investment that has been given must be accompanied by protection as it aims to reduce uncertainty in the law.¹²

In Law Number 13 of 2003 concerning employment, it is also explained that in making decisions regarding employment relationships, it is one of the things that causes the termination of rights and obligations owned by workers or employers. When in Law Number 11 of 2020 concerning Job Creation, there are indeed so many problems that arise. So this is because in Law Number 11 of 2020 concerning Job Creation, which wants to replace and change some of its regulations, one of which is in Law Number 13 of 2003 concerning Job Creation, Law Number 40 of 2004 which explains social security Even in Law Number 24 of 2011 which explains the social security administration body.¹³

However, in fact, in Law Number 11 of 2020 concerning Job Creation, it turns out that several other things related to the obligations of workers, one of which is those who have been laid off. As for remembering that some of the severance pay provisions in Law Number 11 of 2020 concerning Job Creation have been eliminated, there will be changes in positions within the workforce. However, when viewed from a legal theory perspective, Article 89 number 45 of Law Number 11 of 2020 is related to not providing benefits to laborers or workers, so that this causes workers to reject the ratification of Law Number 11 of 2020.¹⁴ As such, the law should be able to provide a sense of usefulness for the community, even though the law is in the community, of course it must be able to provide a benefit or function, so that the law does not cause difficulties in the community.

<https://talenta.usu.ac.id/Mahadi/article/view/8315%0Ahttps://talenta.usu.ac.id/Mahadi/article/download/8315/4626>.

¹⁰ Osgar Sahim Matompo and Wafda Vivid Izziyana, "Konsep Omnibus Law Dan Permasalahan Ruu Cipta Kerja," *RECHTSTAAT NIEUW: Jurnal Ilmu Hukum* 5, no. 1 (2020): 22–29

¹¹ Habibah Zulaiha, "Dampak Pengesahan Ruu Omnibus Law Dalam Perspektif Hukum Ketenagakerjaan," *Qawānīn Journal of Economic Syaria Law* 6, no. 2 (2022): 199–228

¹² Aprillia Jultje Saiya et al., "Partisipasi Masyarakat Dalam Pembentukan Undang-Undang Cipta Kerja Perizinan, Persyaratan Investasi, Ketenagakerjaan, Administrasi Pemerintah, Dukungan Riset Minimum Kabupaten / Kota Maupun Upah Minimum Sektor akan Dihapuskan Karena Upah Minimum Yan," *Jurnal Ilmu Hukum* 1, no. 6 (2021): 618–626.

¹³ Nanang Suparman and Muhammad Andi Septiadi, "Komunikasi Politik Pemerintah Dalam Perumusan Undang-Undang Omnibus Law Cipta Kerja," *Jurnal Penelitian Komunikasi* 24, no. 2 (2021): 161–174.

¹⁴ Nabila Zulfa Humaira, "Penerapan Omnibus Law Dalam Undang Undang No. 11 Tahun 2020 Tentang Cipta Kerja," *JISIP (Jurnal Ilmu Sosial dan Pendidikan)* 5, no. 2 (2021).

Legal Protection for Employment in the Omnibus Law Perspective

With the omnibus law, it certainly has a negative impact on the employment sector, especially for workers or laborers. Therefore, to further strengthen the economy and attract investors to invest in this country, the government is developing or processing a draft law related to job creation and using the Omnibus Law concept. One of the Job Creation laws is of course to regulate employment, and the government is also trying to be able to regulate various regulations that are not synchronized or unbalanced so that this has a negative impact.¹⁵

In the law that is considered comprehensive is related to the development of employment which is currently still being implemented by the government, but it is not balanced with regulatory elements that can avoid the problems that occur and about employment law also still has many shortcomings. In this case, the government and related officials have assured that in the law and protection of labor it is considered very strict and even prevents investors from foreign countries. As this causes the structure of the workforce in Indonesia to be changed to be more flexible, and this is also caused by the many restrictions of a draft Job Creation Law and of course it has the aim of protecting workers has been changed or even eliminated. In the Job Creation Law, it is considered to create a condition or state where workers are not orderly or there is no certainty to get decent work.¹⁶

In Law Number 11 of 2020, which was replaced by Law Number 13 of 2003 concerning employment, changes have been made to the employment system, including:

1. Wages, related to the wages that have been applied by the Governor as it is used to calculate the minimum wage, the consequences for employees who receive the minimum wage that has been set by the Regency/City, how is it given to micro businesses or small businesses, even for labor-intensive industrial sectors, it is likely to be lower than that stated in the law related to the minimum wage;¹⁷
2. Work contracts and also Outsourcing, related to the provisions before being determined related to the restrictions on contract workers or PKWT or direct and temporary production carried out for a maximum of 3 years have been removed. As this applies to both work contracts and Outsourcing. However, it should also be noted that contract work is open to all types of work and there is no time limit, the previous regulation discussing restrictions on work contracts and Outsourcing was removed and amended by article 66 which resulted in the removal of articles 64 and 65.
3. The right to leave, which has been stated in article 93 is changed for workers who take leave due to menstrual pain on the first or second day of marriage, a wife who has a miscarriage or gives birth, they do not have the right to wages during leave (paid

¹⁵ Muhammad Irham Roihan, "Omnibus Law Ditinjau Dari Perspektif Sistem Perundang- Undangan Di Indonesia," *Omnibus Law Ditinjau dari Perspektif Sistem Perundang-Undangan di Indonesia* (2021): 166, <https://dspace.uui.ac.id/bitstream/handle/123456789/29548/17912017> MUHAMMAD IRHAM ROIHAN.pdf?sequence=1&isAllowed=y.

¹⁶ Fajar Kurniawan and Wisnu Aryo Dewanto, "Problematisa Pembentukan Ruu Cipta Kerja Dengan Konsep Omnibus Law Pada Klaster Ketenagakerjaan Pasal 89 Angka 45 Tentang Pemberian Pesangon Kepada PekKurniawan, Fajar, and Wisnu Aryo Dewanto. "Problematisa Pembentukan Ruu Cipta Kerja Dengan Konsep Omnibu," *Jurnal Panorama Hukum* 5, no. 1 (2020): 73–86

¹⁷ Luthvi Febryka Nola, "PENERAPAN OMNIBUS LAW DALAM HUKUM KETENAGAKERJAAN DI INDONESIA THE IMPLEMENTATION OF OMNIBUS LAW IN INDONESIAN LABOR LAW" (2020): 217–230.

leave). Even to take leave due to illness, it must be adjusted to the agreement for the employer, and there is no explanation in the Law.

In this case, the omnibus law is certainly needed to further increase economic growth, factors that provide convenience for both the government and to provide flexibility in licensing procedures, in this case aiming to increase investment and employment.¹⁸

Therefore, the Job Creation Law certainly does not regulate the prohibition of the current employment law regarding the dismissal of workers or laborers for any reason. Therefore, related to legal protection, it is to maintain a person's dignity and respect for the attitude of freedom possessed by Indonesian citizens, this is also based on legal regulations that can protect humanity. Therefore, related to the employment relationship, it is a bond between people who have common goals and interests, especially for employers and workers or laborers.

Direction of Employment Law Policy in the Omnibuslaw Era

Omnibus Law in this case Of course aims to further simplify the number of regulations including legal concepts that have the benefit of unifying various regulations that exist in the legislation. Therefore, in Law Number 12 of 2011 with the creation but this is related to the procedure in making legislation that applies omnibus law. Okay from that omnibus you know with the Civil law legal system of course it is still very rare if to connect this Omnibus Law with the creation of laws. However, from various countries that have implemented it, it provides convenience and assistance in legislation.¹⁹

In the formation and design of our laws, of course, we have provided a connection with legal and executive politics and through legislation. Therefore, by implementing legal politics in the process of designing the Job Creation Law and linking the omnibus law in the legal formulation, it certainly aims to provide more improvements to investment and to create wider employment opportunities. And in the draft law in Indonesia, little by little, it has begun to change and implement the omnibus slow How it aims for the government and the DPR to have choices so that they can draft laws very well.²⁰

Therefore, there is a rejection of the theory that was applied before the draft law was drafted as stated in Law Number 12 of 2011 which explains the drafting of laws and regulations, therefore this will give rise to new problems.²¹ However, this Omnibus Law has the aim of being a form of effort to provide more smoothness in the legislation. However, it should also be noted that related to leave, it has also been explained in the applicable laws and regulations as it explains regarding employment that providing leave for workers or women who are giving birth, even with the end of the employment relationship, this will result in the loss of rights and obligations for workers or workers with employers.²² Therefore, workers or

¹⁸ Moh Hamzah Hisbulloh and Ruslina Dwi Wahyuni, "Deregulasi Hak Upah Dan Pesangon Pekerja Dalam Undang-Undang Cipta Kerja Melalui Konsep Omnibus Law," *Lisyabab : Jurnal Studi Islam dan Sosial* 3, no. 1 (2022): 67–80.

¹⁹ Nola, "PENERAPAN OMNIBUS LAW DALAM HUKUM KETENAGAKERJAAN DI INDONESIA THE IMPLEMENTATION OF OMNIBUS LAW IN INDONESIAN LABOR LAW."

²⁰ Iswahyudi, "Implikasi Kebijakan Omnibus Law Cipta Kerja Dalam Perspektif Teori Perundang-Undangan"

²¹ Setyawan, "Dalam Cipta Kerja Perspektif Omnibuslaw"

²² Zubi, Marzuki, and Affan, "Tinjauan Yuridis Perlindungan Hak-Hak Normatif Tenaga Kerja Setelah Berlakunya Undang-Undang Cipta Kerja (Omnibus Law)"

laborers are not permitted to be employed arbitrarily by the company, because workers or laborers have proper rights and obligations within the company.

Conclusion

First, that what is happening now is the lack of socialization or communication between the government and the community, resulting in a lack of understanding among the community regarding the new Job Creation Law that has just come into effect this year. With the lack of understanding from the community, they assume that the Job Creation Law which tries to implement the omnibuslaw concept is considered very detrimental to the community, but what actually happens is that the government is enforcing this new Job Creation Law which certainly has the aim of creating welfare for the community and wants to develop law enforcement that has been in effect in Indonesia.

Second, Therefore, to provide views and understanding to the public, of course, from the government to provide space for the public to be able to understand the implementation of the Job Creation Law with the omnibuslaw concept. And of course, this is also to prioritize workers or laborers in doing their work, and to provide guarantees for these workers. With the Omnibuslaw, of course, it is also to improve the economy, and to provide encouragement for economic transformation so that it can expand the employment opportunities provided to the community and of course to reduce the very high unemployment rate.

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